

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 132 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF INCOME-TAX

Versus

MANHARLAL G DOSHIT  
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Appearance:

MR MIHIR JOSHI WITH MR MANISH R BHATT for Petitioner  
MR K.H. KAZI, for respondent  
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CORAM : MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE A.R.DAVE

Date of decision: 22/12/97

ORAL JUDGEMENT (Per R.K.Abichandani,J.)

The following two questions of law arise for our determination:-

1. "Whether on the facts and in the circumstances of

the case, the assessee could be said to have created a valid settlement so as to divert his share of income from M/s. Bhaishankar Kanga & Girdharlal and the income therefore could not be subject to tax in individual assessment of the assessee?"

2. "Whether, on the facts and in the circumstances of the case, the Tribunal has been right in law in holding that the share of profit from M/s. Bhaishanker Kanga and Girdharlal could not be subjected to tax in the hands of the assessee individual on the basis of that the share was settled in a trust?"

Identical questions were considered in assessee's own matter and opinion was rendered in I.T.R No. 378/83 decided by this Bench on 12.12.97. For the reasons recorded in that judgement, both the above questions are answered in the affirmative in favour of the assessee and against the Revenue. The reference stands disposed of accordingly with no order as to costs.

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\*/Mohandas